

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

FRANK E. GABLE,

Petitioner,

v.

MAX WILLIAMS,

Respondent.

Case No. 3:07-cv-00413-AC

ORDER

ACOSTA, Magistrate Judge:

On April 18, 2019, the court issued an Opinion and Order (ECF No. 168) (“Decision”) in which it granted in part and denied in part Gable’s amended petition (ECF No. 61) for writ of habeas corpus, and ordered Respondent to retry or release Gable within 90 days, and entered judgment (ECF No. 169) in accordance with that Decision. Respondent filed an appeal (ECF No. 170) of the Decision and judgment in the Ninth Circuit Court of Appeals, and also filed a motion (ECF No. 171) for a stay of the Decision pending its appeal. Gable filed his own appeal (ECF No. 174) and also filed a motion (ECF No. 181) for his release from custody pending these appeals.

In the weeks following these filings, Gable and Respondent, conferring with one another and

coordinating with the U.S. Attorney's Office for the District of Oregon and the Probation Office for the District of Oregon, have resolved every issue raised in the parties' respective motions. These efforts also resulted in entry of an order (ECF No. 74) in *United States v. Frank Edward Gable*, Case No. 3:90-cr-00170-SI-1 (D. Or.), staying execution of Gable's consecutive federal sentence pending the final outcome in this case and removing the federal detainer on Gable. In that order, United States District Judge Michael Simon referred to this court determination of the release conditions governing Gable's release pending the appeal process.

Accordingly, the court hereby **ORDERS**:

1. That the portion of this court's Judgment (ECF No. 169) requiring the State of Oregon to retry Petitioner on the aggravated murder charges within 90 days of the date thereof is hereby **STAYED** pending resolution of the Respondent's appeal to the United States Court of Appeals for the Ninth Circuit and, if applicable, the United States Supreme Court.
2. Gable shall be released from the Custody of the Oregon Department of Corrections at 10:00 a.m. Central Time on Friday, June 28, 2019.
3. Gable's release pending the appeal process shall be supervised by the United States Probation and Pretrial Services Office for the District of Kansas,.
4. Pursuant to Judge Simon's referral order in Case No. 90-170-SI and the authority granted under 28 U.S.C. § 3603(10), Gable's release pending the appeal process shall be governed by the conditions set forth in the order of release signed by the court on this date.

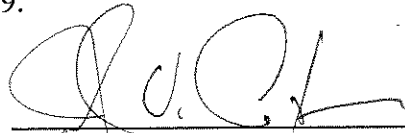
IT IS FURTHER ORDERED that the parties shall confirm and submit a status report to the court within 30 days of the Ninth Circuit's ruling on Respondent's appeal. At that time, the parties shall notify the court whether the stay of the retrial should continue because of any pending

Supreme Court litigation, or any other or additional reason.

IT IS FURTHER ORDERED that the Clerk of the Court is **DIRECTED** to file a copy of this Order in *United States v. Frank Edward Gable*, Case No. 3:90-cr-00170-SI.

IT IS SO ORDERED.

DATED this 27th day of June, 2019.



JOHN V. ACOSTA
United States Magistrate Judge